

REMARKS

For the Examiner's convenience, Applicants will now address stated issues and grounds for rejection of the pending claims under appropriate headings.

Claim Amendments

Claims 1 and 10 have been amended to more clearly define the atomized substance as a mixture of a biocompatible polymer, a solvent for the polymer and a biologically active agent. Support for this amendment can be found at, for example, page 18, line 27-page 19, line 3 of the Specification. Claims 19-24 have been added to further define the physical state of the biologically active agent in the mixture. Support for newly added Claims 19-24 can be found at page 18, lines 4-10 of the Specification.

Rejection of Claims 1-18 for Obviousness-Type Double Patenting

The Examiner has rejected Claims 1-18 for Obviousness-Type Double Patenting over Claims 1-20 of commonly owned U.S. Patent No. 5,922,253 and Claims 1-22 of commonly owned U.S. Patent No. 6,153,129. In order to obviate the rejection, Applicants are concurrently filing a Terminal Disclaimer in compliance with 37 C.F.R. § 1.132(c) over U.S. Patent Nos. 6,153,129, 5,922,253 and recently issued U.S. Patent No. 6,358,443 (immediate parent to the present application and commonly owned). Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the above remarks and concurrent filing of a Terminal Disclaimer, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned at (978) 341-0036.

Respectfully submitted,
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MARKED UP VERSION OF AMENDMENTS

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GROUP 1700Specification Amendments Under 37 C.F.R. § 1.121(b)(1)(iii)

Replace the paragraph at page 1, lines 3 through 8 with the below paragraph marked up by way of bracketing and underlining to show the changes relative to the previous version of the paragraph.

This application is a Continuation of [pending] U.S. Patent Application Serial No. 09/587,821, filed on June 6, 2000, now U.S. Patent No. 6,358,443, which is a Continuation of U.S. Patent Application Serial No. 09/305,413, filed on May 5, 1999, now U.S. Patent No. 6,153,129, which is a Continuation of U.S. Patent Application Serial No. 08/443,726, filed on May 18, 1995, now U.S. Patent No. 5,922,253, the entire teachings of which are incorporated herein by reference.

Claim Amendments Under 37 C.F.R. § 1.121(c)(1)(ii)

1. (Amended) A method for forming microparticles comprising the steps of:
 - a) atomizing a [solution of] mixture comprising a biocompatible polymer, [and] a solvent for the polymer[, which also has] and a biologically active agent [dispersed therein], to form microdroplets;
 - b) directing the microdroplets into a freezing section containing a liquefied gas, whereby the microdroplets freeze; and
 - c) contacting the frozen microdroplets in an extraction section with a liquid non-solvent to extract the solvent into the non-solvent thereby forming said microparticles; wherein the freezing section and extraction section are separated, and the non-solvent is in the liquid state throughout the method.

10. (Amended) A method for forming microparticles comprising the steps of:

- a) atomizing a [solution of] mixture comprising a biocompatible polymer, [and] a solvent for the polymer[, which also has] and a biologically active agent [dispersed therein], to form microdroplets;
- b) directing the microdroplets into a freezing vessel containing a liquefied gas, whereby the microdroplets freeze; and
- c) contacting the frozen microdroplets in an extraction vessel with a liquid non-solvent to extract the solvent into the non-solvent thereby forming said microparticles; wherein the freezing vessel and extraction vessel are separated, and the non-solvent is in the liquid state throughout the method.